

1 HONORABLE RICHARD A. JONES  
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8 UNITED STATES DISTRICT COURT  
9 WESTERN DISTRICT OF WASHINGTON  
10 AT SEATTLE

11 THO V. DAO,  
12 Plaintiff,

13 v.  
14 SEATTLE PUBLIC SCHOOLS, *et al*,  
Defendants.

15 Case No. 2:23-cv-1341-RAJ

16 **ORDER**

17 This matter comes before the Court on Plaintiff's Motion for Leave to File a First  
18 amended complaint. Dkt. # 12. The Court **GRANTS** the motion.

19 **I. BACKGROUND**

20 Plaintiff, proceeding *pro se*, alleged claims of employment discrimination and  
21 retaliation under Title VII and Washington state law. Dkt. # 1. Plaintiff has since obtained  
counsel and seeks to amend his complaint. Dkt. # 12.

22 **II. STANDARD**

23 Pursuant to Rule 15(a)(2) of the Federal Rules of Civil Procedure, "a party may  
24 amend its pleading only with the opposing party's written consent or the court's leave. The  
25 court should freely give leave when justice so requires." "Rule 15(a) is very liberal and  
26 leave to amend 'shall be freely given when justice so requires.' " *AmerisourceBergen Corp.*  
*v. Dialysis West, Inc.*, 464 F.3d 946, 951 (9th Cir. 2006) (quoting *Bowles v. Reade*, 198

1 F.3d 752, 757 (9th Cir. 1999)). “In determining whether leave to amend is appropriate, the  
 2 district court considers ‘the presence of any of four factors: bad faith, undue delay,  
 3 prejudice to the opposing party, and/or futility.’ ” *Owens v. Kaiser Found. Health Plan,*  
 4 *Inc.*, 244 F.3d 708, 712 (9th Cir. 2001) (quoting *Griggs v. Pace Am. Group, Inc.*, 170 F.3d  
 5 877, 880 (9th Cir. 1999)). Because leave to amend should be freely given, “the nonmovant  
 6 bears the burden of showing why amendment should not be granted.” *Senza-Gel Corp. v.*  
 7 *Seiffhart*, 803 F.2d 661, 666 (9th Cir. 1986). Thus, all inferences must be drawn in favor  
 8 of the moving party. *Griggs*, 170 F.3d at 880.

### 9 III. DISCUSSION

10 Given the early stage of this litigation, the Court finds it appropriate to permit  
 Plaintiff to amend his complaint. See *Wizards of the Coast LLC v. Cryptozoic*  
 11 *Entertainment LLC*, 309 F.R.D. 645, 652 (W.D. Wash. 2015) (noting that prejudice in the  
 12 context of a motion to amend means a party was substantially disadvantaged or deprived  
 13 of the opportunity to present facts or evidence that it could have with a timely amendment).  
 14 Notably, discovery has not substantially started and there was no undue delay by Plaintiff  
 15 in bringing the motion. Furthermore, there is no indication of bad faith on Plaintiff’s part.  
 16 To the extent the amended pleading prejudices some Defendants, the Court finds that the  
 17 prejudice would be minimal given the opportunity to file a motion to dismiss.

### 19 IV. CONCLUSION

20 For the reasons stated above, the Court **GRANTS** Plaintiff’s motion. Dkt. # 12.

22 DATED this 8th day of December, 2023.

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The Honorable Richard A. Jones  
 United States District Judge